13 of 2003

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATISGARH)

W. P. NO. 597 OF 2003

PETITIONERS

1. Chhattisgarh State Electricity Board, through its Secretary Dangania, Raipur (C.G.)

2. Executive Engineer (Civil) 400 K. V. Civil Construction Division, Chhattisgarh State Electricity Board, Bhilai-3, & Officer-in-Charge of the Petitioner No1.

P. R. No. ... Presented by Shri ... dated ... 19.02.03

VERSUS

RESPONDENTS

1. Shri J. K. Kacchap, S/o J.C. Kacchap, aged about 58 yrs, Rtd.Assistant Gr.II presently residing at Rawanbhata Near KapilTailors, Post. ACC Jamul, Tahsil and District Durg (Chhattisgarh)

2. Industrial Court Bench at Raipur (Chhattisgarh).

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(44)

आदेश पत्रक

W.P. No. 597/03

मामला क्रमांक ..... सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

12.3.2004

Petitioners by Shri Sanjay K. Agarwal, Advocate.

None on behalf of the Respondent No.1.

Heard.

The petitioner has preferred this petition under Article 227 of the Constitution of India challenging the order dated 22.3.2002 passed by the Industrial Court, Bench at Raipur in Civil Appeal No. 79/MPIR-A-II/2001 whereby the order dated 2.2.2001 passed by the Labour Court is set aside and the appeal of the Respondent No.1 was allowed.

The relevant facts leading to filing of this writ petition are that the Respondent No.1 J.K.Kacchap was working as Assistant Grade-II in the Chhattisgarh State Electricity Board (C.S.E.B.) and during his employment he was allotted House No. E/28, M.P.E.B. Colony when he was posted at Sakti Nagar Khedamara Jamul, he remained there up to 1986. Thereafter he was transferred in the month of July, 1986 from Khedamara Jamul to Bhilai ; then he was transferred from Bhilai to Kanker; and then Kanker to Baloc Division, but he did not vacate the said quarter No. E/28. Therefore the petitioner/C.S.E.B. deducted penal rent of the said quarter for the period from 11.5.1990 to 3.11.1993 to the tune of Rs. 31,358/-.

Aggrieved by the said action of the employer/Board, the Employee/Respondent No.1 approached the Labour Court, Durg and the learned Labour Court vide its order dated 2.2.2001 rejected the application of the Respondent No.1. Being aggrieved by the said order the Respondent No.1 preferred an appeal before the Industrial Court, Raipur

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

and learned Industrial Court after hearing the parties observed in para-6 of the impugned order that the said rent has been deducted without giving notice to the Respondent No.1, and in para-7 of the impugned order it is further observed that the circulars relating to the recovery of the market rent has not been produced.

As far as the question of giving notice before imposing penal rent is concerned a perusal of the statement of Respondent No.1 which he gave before the Labour Court reveals that he admitted in para-1 of his statement that Ex.P/1 the letter dt. 29.10.1993 about the penal rent was served on him but prior to that no such letter was received by him and thereafter a penal rent of Rs. 31,358/- was deducted. He further admitted that he received Annexure P/2 in this regard and after receiving the notice Annexure P/2 he vacated the said quarter. He received Ex.P/2 before receiving Ex.P/1 therefore in view of this admission of the Respondent No.1 the finding of the learned Industrial Court in para-6 is contrary to the record therefore the same cannot be sustained.

As far as the recovery of the penal rent is concerned in para-9 of his statement the Respondent No 1 has stated that it is true that a transferred employee is entitled to retain the quarter for two months and thereafter if the quarter is not vacated then the Board is entitled to charge double the rent for next two months and thereafter the Board is entitled to recover penal rent. Therefore the respondent No.1 was aware about the penal rent and the market rent therefore this finding of the learned Industrial Court is also without any basis and the rent has been recovered as per the prevailing Rules and Regulations of the Board. More

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

over the Respondent No.1 has admitted in para-4 of his statement that on his transfer he received T.A.D.A. and he also received transportation charges of luggage. When he was transferred to Bhilai from Khedamara, Bhilai to Balod and Balod to Jagdalpur on all transfers he received T.A.D.A. from the Board. Therefore the Respondent No.1 received all the transfer allowances including the transportation charges of luggage; even then he did not vacate the quarter of the petitioner/C.S.E.B.

In view of the above, the petitioner/C.S.E.B. was within its right to impose penal rent as per the circulars of the Board. The order of the learned Industrial Court is not sustainable as the same is contrary to the record and the evidence of the Respondent No.1. Therefore, the petition is allowed and the order passed by the Industrial Tribunal is set-aside.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

[पीछे देखिये